

# **Maryland Health Benefit Exchange Board Meeting Minutes**

**September 20, 2011**

**1:30 p.m. – 4:30 p.m.**

**Maryland Health Care Commission**

**4160 Patterson Avenue**

**Baltimore, MD 21215**

The materials presented in the meeting are listed on the Maryland Health Benefit Exchange webpage: <http://dhmh.maryland.gov/healthreform/exchange/materials/sep20materials.html>

## **Members Present**

Joshua M. Sharfstein, M.D.

Therese Goldsmith, J.D., M.S.

Darrell Gaskin, Ph.D.

Ben Steffen, M.A.

Georges Benjamin, M.D.

Jennifer Goldberg, J.D., LL.M.

Enrique Martinez-Vidal, M.P.P.

Thomas Saquella, M.A.

Rebecca Pearce, M.B.A.

## **Members Absent**

None

## **Welcome, Updates, and Approval of Minutes**

Secretary Sharfstein welcomed Board members and participants. He commended the Exchange planning work so far completed. Secretary Sharfstein noted that three of four Exchange Board Advisory Committees (“advisory committees”) have had their initial meeting. In addition, he noted the Board continues to go through the vendor selection process. Secretary Sharfstein and Mr. Steffen highlighted updated U.S. Census data detailing that 14 percent of Marylanders, or roughly 733,000, remain without health insurance coverage. This is lower than the national uninsurance rate of 18.4 percent.

The Board approved the minutes for the August 16<sup>th</sup> Board meeting. Secretary Sharfstein introduced Rebecca Pearce as the Maryland Health Benefit Exchange Director. She commented on how she is building relationships with the federal Exchange office within the Center for Consumer Information and Insurance Oversight (CCIIO). Ms. Pearce noted that she is familiarizing herself with the legislative study vendors.

## **Briefing on Three-Recently Proposed Federal Regulations**

Ms. Guyer, consultant to the Maryland Department of Health and Mental Hygiene (DHMH) gave a presentation on the U.S. Department of Health and Human Services’ (HHS) Proposed Rules on Exchange Eligibility and Employer Standards, Medicaid Eligibility, and Health Insurance Premium Tax Credits – released August 12, 2011. The presentation included initial

suggested comments to send to HHS. The final comments are due October 31, 2011. Ms. Guyer commented on the difficult process of created a link between current Medicaid and social assistance eligibility systems and a premium tax-credit program. She noted the draft comments would be presented at the October 18<sup>th</sup> Board meeting. The Internal Revenue Service (IRS) based methodology contrasts with the current income Medicaid methodology. She noted how they are very different processes and such linkage would be the first of its kind. This makes the Exchange requirement for “projected income” difficult and can cause hardship on individuals; that is, if the applicants report income inaccurately, they will have to pay back their premium tax credits. Ms. Guyer noted the methodology behind the percent of income contribution cap (*ranging from 2 percent to 9.5 percent, based on income*) is a concern. The Exchange eligibility determination is based on attaining single coverage; that is, an individual whose percent of income exceeds 9.5 percent to attain family coverage, but less than 9.5 percent for single coverage, cannot attain coverage in the Exchange. HHS guidance had not been presented yet on this issue.

In response to a question by Dr. Gaskin, she commented that individuals with particular benefits from the U.S. Department of Veterans Affairs (VA) could meet the minimum requirement, making them ineligible for the Exchange. Ms. Guyer noted how Maryland is ahead in streamlining the enrollment and eligibility processes, though reiterating how an online application system still does not exist. She went over the proposed eligibility determination process. Ms. Guyer concluded with potential comments and questions to pose to HHS— such as the production of the model application (federal requirement to use), individual mandate exemptions (no federal guidance), and the future of “Express Lane Eligibility” (which sunsets as a result of the Children’s Health Insurance Program Reauthorization Act (CHIPRA)). She noted CCIIO would be providing guidance on when Internal Revenue Service (IRS) data would be available.

### **Presentation of Proposed Comments by Exchange Regarding Federal Regulations**

Ms. Kopelke, Ms. Borden, and Deputy Secretary Milligan gave a presentation on the Exchange Board’s proposed comments regarding the HHS proposed rulings, released July 11, 2011; specifically the establishment of Exchanges and qualified health plans; standards related to reinsurance, risk corridors, and risk adjustment. Ms. Kopelke noted that comments would be submitted September 28, 2011. The proposed comments were tiered by (1) an expression of support and (2) request for flexibility for the Exchange initial rulings, whereas comments toward reinsurance, risk corridors, and risk adjustment included an expression of support, suggested amendment, and a request for clarity. Regarding the Exchange proposed rulings, flexibility was requested during Exchange planning processes, such as conflict of interest policies, financing the Exchange, and timelines regarding recertification of qualified health plans (QHPs). Other proposed comments included a suggested amendment for the right to terminate the reinsurance contract for cause, as well as a request for clarity on which entities (*other than Exchanges*) could

perform risk adjustment. Secretary Sharfstein put forth a motion to turn the proposed comments to Exchange Director Rebecca Pearce to submit on behalf of the Board. The motion was passed.

Secretary Sharfstein noted that the National Association of Insurance Commissioners (NAIC) is sending comments as well. Regarding the 90 day review period for approval the State's Exchange Plan, Secretary Sharfstein noted Maryland's Medicaid program already uses this time frame. He suggested a reduction of the period for 30 days to accelerate the process. Deputy Secretary Milligan concurred, noting that the existing 90 day review period can already start/stop depending on questions; so in real time the review period can last much longer. The Board discussed whether there should be a limit on the number of period extensions. Secretary Sharfstein commented the state could have discretion, depending on if the Centers for Medicare and Medicaid Services (CMS) clarifies in further proposed rulings. The Board agreed to add a comment requesting flexibility in lengthening the open enrollment periods, allowing states more time to enroll individuals. Regarding the re-certification of qualified-health plans (QHPs), the Board agreed to request flexibility to utilize existing resources (such as the Maryland Insurance Administration [MIA] or the Attorney General's office) to monitor marketing practices. There were concerns on the federal rule were states cannot impose additional requirements on multi-state plans in the National Exchange<sup>1</sup> or state-based Exchanges operated by the Office of Personnel Management (OPM). The Board proposed a resolution for Ms. Pearce to take charge of the proposed comment process; which includes incorporating the Board's recommendations, further researching noted issues, and presenting updated draft comments to the Board. The Board resolution was passed.

### **Non-Legislative Study Proposed Procurement**

Deputy Secretary Milligan and Ms. Burton gave a presentation on two addition request-for-proposals (RFPs). The "Take-up Study" RFP is meant to create a more dynamic financial modeling tool, building on the previous iteration by the Hilltop Institute at the University of Maryland, Baltimore County (UMBC). Deputy Secretary Milligan cited the deliverables for the this RFP, which includes a detailed methodology, the analytic tool, a user guide, and a report noting what changes the model might undertake in the coming years. One aspect that would make the model more dynamic is assessing the effect the ACA has on employer-sponsored insurance (ESI); that is, whether employers would drop their employees, sending them to seek coverage in the Exchange. Other dynamic components include assessing (1) the risk profile in the individual market and (2) implications of the self-sustaining mechanisms of the Exchange. Mr. Steffen emphasized that estimating beyond 2015 is difficult, given the dynamic changes from ACA.

Ms. Burton went over the "Call-Center" RFP, which is to assist in analyzing consumer assistance data and provide an analysis of options to facilitate the Exchange in coordinating existing

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<sup>1</sup> This Exchange is for states opting out of establishing and operating their own Health Benefits Exchange.

resources. The Board noted the vendor would be providing an inventory of existing processes and identifying the data fields, while exploring integration of new technologies. The Board approved the resolution, with suggested modifications, for the non-legislative proposed procurements.

*\*\*\*The Board entered into closed executive session\*\*\**

### **Award of Round 2 Legislative Studies RFPs**

The Board came out of the closed executive session to announce the awarding of the three remaining legislative study RFPs. The “Financing the Exchange” and “Study of Exchange Operating Model” RFPs were awarded to Wakely Consulting. The “Study on Public Relations and Advertising” RFP was awarded to Weber Shandwick.

### **Update on IT Eligibility and Enrollment Systems Work**

Deputy Secretary Milligan noted that under the statute it is appropriate for the Exchange to oversee the procurement process. He noted the goal of the work is to create a “no-wrong-door” policy for individuals going through the Medicaid and Exchange eligibility processes – moving from a casework process to a reliance on state/federal database process. Deputy Secretary Milligan noted Maryland had secured the Exchange Early Innovator and Level 1 Establishment grants, securing the financing required to fund a vendor to assist in revamping Maryland’s existing eligibility processes to meet milestones for federal certification.

### **Next Steps**

Secretary Sharfstein commended the work of the project teams handling the procurement processes. He thanked attendees and encouraged them to participate in the advisory committee process.